

To: Strauss, Linda[Strauss.Linda@epa.gov]; Celeste, Laurel[celeste.laurel@epa.gov]; Grant, Brian[Grant.Brian@epa.gov]; Mclean, Kevin[Mclean.Kevin@epa.gov]; Anderson, Steve[Anderson.Steve@epa.gov]; Cleland-Hamnett, Wendy[Cleland-Hamnett.Wendy@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]; Wise, Louise[Wise.Louise@epa.gov]; Blair, Susanna[Blair.Susanna@epa.gov]; Schmit, Ryan[schmit.ryan@epa.gov]; Morris, Jeff[Morris.Jeff@epa.gov]
From: Pierce, Alison
Sent: Wed 7/19/2017 6:43:28 PM
Subject: RE: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

Looping in Jeff, who somehow got knocked off the list along the way.

From: Strauss, Linda
Sent: Wednesday, July 19, 2017 2:35 PM
To: Celeste, Laurel <celeste.laurel@epa.gov>; Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Anderson, Steve <Anderson.Steve@epa.gov>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Schmit, Ryan <schmit.ryan@epa.gov>
Subject: RE: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

Here's what Ryan put together. It hits all points made and is understandable. Not sure

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Let me know if you have edits to this. If not, I'll send to OPA.

--What is the rationale for not reaching back to evaluate the risk associated with legacy uses? In the case of asbestos, for example, such a focus would seemingly disregard the millions of tons of asbestos known to be in use throughout the country (as insulation, wrapping, building materials, etc) and instead be limited to hundreds of tons of asbestos, primarily imported.

Ex. 5 - Deliberative Process

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-The June risk scoping evaluation appears to contradict EPA's Jan. 19, 2017 document entitled "Procedures for Chemical Risk Evaluation under the Amended Toxic Substances Control Act," which says "EPA interprets the amended TSCA as requiring that risk evaluations encompass all manufacture, processing, distribution in commerce, use, and disposal activities that constitute the conditions of use.... (T)he statutory text and purpose are best effectuated through a more encompassing reading" (<https://www.federalregister.gov/documents/2017/01/19/2017-01224/procedures-for-chemical-risk-evaluation-under-the-amended-toxic-substances-control-act>)

Has the EPA changed its position on what constitutes "conditions of use" since January, and if so, why?

Ex. 5 - Deliberative Process

-Are the conditions of use now "locked down" as suggested in the same EPA Jan 19 document, meaning there is no chance to alter the scope of the EPA review at a later date?

Ex. 5 - Deliberative Process

practicable to meet the statutory deadlines if stakeholders are free to identify additional conditions of use later in the process—for example, on the proposed risk determination.”

Ex. 5 - Deliberative Process

Thanks,

Ryan

(202)564-0610

From: Strauss, Linda

Sent: Wednesday, July 19, 2017 11:11 AM

To: Celeste, Laurel <celeste.laurel@epa.gov>; Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Anderson, Steve <Anderson.Steve@epa.gov>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>; Beck, Nancy <beck.nancy@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Schmit, Ryan <schmit.ryan@epa.gov>

Subject: RE: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

Wonderful Ryan Schmit is working on this too. Stay tuned.

From: Celeste, Laurel

Sent: Wednesday, July 19, 2017 11:03 AM

To: Grant, Brian <Grant.Brian@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Anderson, Steve <Anderson.Steve@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Schmit, Ryan <schmit.ryan@epa.gov>

Subject: RE: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

I like those suggestions—one other question—

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

From: Grant, Brian

Sent: Wednesday, July 19, 2017 11:00 AM

To: Celeste, Laurel <celeste.laurel@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>; Anderson, Steve <Anderson.Steve@epa.gov>; Strauss, Linda <Strauss.Linda@epa.gov>; Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Schmit, Ryan <schmit.ryan@epa.gov>

Subject: RE: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

I notice that the reporter, in his second question, is citing to the proposed RE rule, and does not appear to have factored in the final rule. I think that

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Re his third question: As a legal matter, I don't think

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Brian Grant

EPA Office of General Counsel

202-564-5503

This e-mail contains material protected by the deliberative process and attorney-client privileges. Please do not further disseminate it or its contents. Thank you.

From: Strauss, Linda
Sent: Wednesday, July 19, 2017 8:31:49 AM
To: Beck, Nancy
Cc: Cleland-Hamnett, Wendy; Wise, Louise; Morris, Jeff; Blair, Susanna; Pierce, Alison; Schmit, Ryan; Celeste, Laurel
Subject: Re: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

Let's see what we come up with in writing today that we can use for written or talkers.

Sent from my iPhone

On Jul 19, 2017, at 8:00 AM, Beck, Nancy <Beck.Nancy@epa.gov> wrote:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Nancy B. Beck, Ph.D., DABT

Deputy Assistant Administrator, OCSPP

Ex. 6 - Personal Privacy

beck.nancy@epa.gov

From: Strauss, Linda
Sent: Tuesday, July 18, 2017 11:50 AM
To: Cleland-Hamnett, Wendy <Cleland-Hamnett.Wendy@epa.gov>; Wise, Louise <Wise.Louise@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>
Cc: Blair, Susanna <Blair.Susanna@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Schmit, Ryan <schmit.ryan@epa.gov>
Subject: Now asking for an interview - Matt Brown, AP, on Asbestos; DDL ASAP

This AP reporter is now asking for a background interview on why we are not including all the legacy uses of asbestos.

Wendy/Nancy/Jeff, I am assuming that you prefer to provide more in writing than an interview to answer his Q's below.

Linda

From: Strauss, Linda
Sent: Tuesday, July 18, 2017 11:47 AM
To: Blair, Susanna <Blair.Susanna@epa.gov>
Cc: Schmit, Ryan <schmit.ryan@epa.gov>
Subject: FW: follow-up -- RE: LINDA/OPP: Matt Brown, AP, on Asbestos; DDL ASAP

More follow-up Q's from the AP reporter. Can we try to get the reporter some more detail (versus going the interview route)?

Linda

From: Daguillard, Robert
Sent: Tuesday, July 18, 2017 10:29 AM
To: Strauss, Linda <Strauss.Linda@epa.gov>
Subject: RE: follow-up -- RE: LINDA/OPP: Matt Brown, AP, on Asbestos; DDL ASAP

Linda, the reporter has follow-up questions. The press secretary's office

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thanks, R.

**

Hi Robert-

Thanks for the time today and for your response.

However, as mentioned during our phone conversation, we're looking for an explanation of the reasoning behind EPA's plan to focus its risk evaluation on prospective or ongoing uses of asbestos and the other 9 toxins.

Three specific questions:

--What is the rationale for not reaching back to evaluate the risk associated with legacy uses? In the case of asbestos, for example, such a focus would seemingly disregard the millions of tons of asbestos known to be in use throughout the country (as insulation, wrapping, building materials, etc) and instead be limited to hundreds of tons of asbestos, primarily imported.

-The June risk scoping evaluation appears to contradict EPA's Jan. 19, 2017 document entitled "Procedures for Chemical Risk Evaluation under the Amended Toxic Substances Control Act," which says "EPA interprets the amended TSCA as requiring that risk evaluations encompass all manufacture, processing, distribution in commerce, use, and disposal activities that constitute the conditions of use.... (T)he statutory text and purpose are best effectuated through a more encompassing reading" (<https://www.federalregister.gov/documents/2017/01/19/2017-01224/procedures-for-chemical-risk-evaluation-under-the-amended-toxic-substances-control-act>)

Has the EPA changed its position on what constitutes "conditions of use" since January, and if so, why?

-Are the conditions of use now "locked down" as suggested in the same EPA Jan 19 document, meaning there is no chance to alter the scope of the EPA review at a later date? "It will not be practicable to meet the statutory deadlines if stakeholders are free to identify additional conditions of use later in the process—for example, on the proposed risk determination."

Thanks for your time and help.

Let me know if any of these three questions need further clarification.

Matt Brown

Matthew Brown

Associated Press Correspondent

From: Strauss, Linda

Sent: Monday, July 17, 2017 5:18 PM

To: Daguillard, Robert <Daguillard.Robert@epa.gov>

Subject: FW: follow-up -- RE: LINDA/OPP: Matt Brown, AP, on Asbestos; DDL ASAP

Here you go, Robert. OGC Approved.

1. Follow-up Question: “Why is EPA not including legacy?”

Response: We are not including legacy uses because EPA does not plan to *reach back to evaluate the risks associated with legacy uses and legacy disposal*. EPA interprets the risk evaluation process of TSCAS Section 6 to focus on the continuing flow of chemical substances from manufacture, processing and distribution in commerce into the use and disposal stages of their lifecycle.

2. Original Question: “I see for asbestos scoping document (pgs 24-25 that EPA is not going to consider “legacy” uses. Hoping to get some further details. For example, wouldn’t that exclude most asbestos that’s already out there _ in other words, asbestos that’s currently in use?”

Response: EPA generally plans to focus risk evaluations and any corresponding risk management on uses for which manufacturing, processing, or distribution in commerce is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going). EPA generally does not plan to *reach back to evaluate the risks associated with legacy uses and legacy disposal*.

For instance, EPA would consider the use of a chemical substance in insulation, where the manufacture, processing, or distribution in commerce for that use is prospective or on-going, but would not consider the use of the chemical substance in previously installed insulation (such as is the case with asbestos), if the manufacture, processing or distribution for that use is not prospective or on-going.

Background for OPA, if needed: Here' the preamble language from the Risk Evaluation rule:

EPA interprets the mandates under section 6 to conduct risk evaluations and any corresponding risk management to focus on uses for which manufacturing, processing, or distribution in commerce is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going), rather than reaching back to evaluate the risks associated with legacy uses, associated disposal, and legacy disposal. For instance, the conditions of use for purposes of section 6 might reasonably include the use of a chemical substance in insulation, where the manufacture, processing, or distribution in commerce for that use is prospective or on-ongoing, but would not include the use of the chemical substance in previously installed insulation, if the manufacture, processing or distribution for that use is not prospective or on-going. In other words, EPA interprets the risk evaluation process of section 6 to focus on the continuing flow of chemical substances from manufacture, processing and distribution in commerce into the use and disposal stages of their lifecycle.

From: Daguillard, Robert
Sent: Monday, July 17, 2017 9:13 AM
To: Strauss, Linda <Strauss.Linda@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>
Subject: LINDA/OPP: Matt Brown, AP, on Asbestos; DDL ASAP

Good morning,

Matt Brown, AP, has a follow-up question on TSCA. DDL ASAP.

“I see for asbestos scoping document (pgs 24-25 that EPA is not going to consider “legacy” uses. Hoping to get some further details. For example, wouldn’t that exclude most asbestos that’s already out there _ in other words, asbestos that’s currently in use?”

Thanks, R.

Robert Daguiard

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